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WILLIE RIOS

**UNITED STATES DISTRICT COURT,
DISTRICT OF ARIZONA**

WILLIE RIOS,)	Case No.:
)	
Plaintiff,)	COMPLAINT AND DEMAND FOR
)	JURY TRIAL
v.)	
)	(Unlawful Debt Collection Practices)
COLLECTCORP CORPORATION,)	
)	
Defendant.)	

PLAINTIFF'S COMPLAINT

WILLIE RIOS (Plaintiff), through his attorneys, KROHN & MOSS, LTD., alleges the following against COLLECTCORP CORPORATION. (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
3. Defendant conducts business in the state of Arizona, and therefore, personal jurisdiction is established.
4. Venue is proper pursuant to *28 U.S.C. 1391(b)(1)*.

1 5. Declaratory relief is available pursuant to 28 *U.S.C.* 2201 and 2202.

2 **PARTIES**

3 6. Plaintiff is a natural person residing in Las Vegas, Clark County, State of Nevada.

4 7. Plaintiff is a consumer as that term is defined by 15 *U.S.C.* 1692a(3), and according to
5 Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 *U.S.C.* 1692a(5).

6 8. Defendant is a debt collector as that term is defined by 15 *U.S.C.* 1692a(6), and sought
7 to collect a consumer debt from Plaintiff.

8 9. Defendant is a collection agency and that maintains an office in Phoenix, Maricopa
9 County, Arizona.

10 10. Defendant acted through its agents, employees, officers, members, directors, heirs,
11 successors, assigns, principals, trustees, sureties, subrogees, representatives, and
12 insurers.

13 **FACTUAL ALLEGATIONS**

14 11. Defendant constantly and continuously places collection calls to Plaintiff seeking and
15 demanding payment for an alleged debt.

16 12. Defendant called Plaintiff from 877-433-7012.

17 13. Defendant calls Plaintiff at Plaintiff's cell phone.

18 14. Defendant caller left voice mail messages where caller failed to disclose the name of the
19 company. (See transcribed voicemail messages attached as Exhibit A.)

20 15. Defendant caller left at least one voicemail message where caller failed to disclose that
21 the call is from a debt collector. (See Exhibit A.).

22 **COUNT I**

23 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

24 16. Defendant violated the FDCPA based on the following:

25 a. Defendant violated §1692c(a)(1) of the FDCPA because Defendant engaged in

1 calling Plaintiff at a time and place known to be inconvenient.

2 b. Defendant violated §1692d of the FDCPA because Defendant engaged in
3 harassing, oppressive, or abusive conduct the natural consequence of which is to
4 harass, oppress or abuse when Defendant continuously and constantly calls
5 Plaintiff seeking and demanding payment for an alleged debt.

6 c. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiff's
7 telephone to ring repeatedly and continuously with the intent to annoy, abuse,
8 and harass Plaintiff.

9 d. Defendant violated §1692d(6) of the FDCPA because Defendant called and left
10 voicemail messages that do not disclose the name of the company that Defendant
11 is calling from, therefore no meaningful disclosure of Defendant's identity.

12 e. Defendant violated §1692(e) of the FDCPA because Defendant made a false,
13 deceptive or misleading statement each time Defendant left a message without
14 stating the name of the company from where caller is calling.

15 f. Defendant violated §1692e(10) of the FDCPA because Defendant used false
16 representation or deceptive means to collect a debt or obtain information
17 concerning Plaintiff when Defendant called by leaving voicemail messages that
18 do not disclose the name of the company that Defendant is calling from and do
19 not disclose that the call is from a debt collector.

20 g. Defendant violated §1692e(11) of the FDCPA by failing to disclose in the initial
21 communication that the communication was from a debt collector and any
22 information will be used for that purpose.

23 h. Defendant violated §1692e(11) of the FDCPA by failing to disclose in
24 subsequent communications that the communication was from a debt collector.

25 i. Defendant violated §1692f of the FDCPA by engaging in unfair or

1 unconscionable means to collect or attempt to collect any debt when it left at
2 least one voicemail message that do not disclose the name of the company, when
3 it left the same voicemail message that failed to state that the call is from a debt
4 collector.

5 17. As a direct and proximate result of one or more or all of the statutory violations above
6 Plaintiff has suffered emotional distress (see Exhibit B).

7 WHEREFORE, Plaintiff, WILLIE RIOS, respectfully requests judgment be entered against
8 Defendant, COLLECTCORP CORPORATION., for the following:

9 18. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection
10 Practices Act,

11 19. Statutory damages pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,

12 20. Actual damages,

13 21. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
14 *15 U.S.C. 1692k*

15 22. Any other relief that this Honorable Court deems appropriate.

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff, WILLIE RIOS, demands a jury trial in this cause of action.

18 RESPECTFULLY SUBMITTED,

19 DATED: August 31, 2009

KROHN & MOSS, LTD.

20
21 By: /s/ Ryan Lee

22 Ryan Lee
23 Attorney for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF NEVADA

Plaintiff, WILLIE RIOS, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, WILLIE RIOS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: 8-7-09


WILLIE RIOS

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EXHIBIT A

_____ business matter that has been placed in our office. Please contact our office at 1877-433-7012. There are many options available to you, so please call and talk to one of our agents today. This is not a sales or solicitation call. Our hours of operation are Monday and Tuesday 10 a.m. to 8 p.m., Wednesday and Thursday 8 a.m. to 5 p.m., and Friday 8 a.m. to 2 p.m. Central Standard Time. We look forward to your talk.

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_____ is for Merlene Rios. If you are Merlene Rios and if other parties can listen into this message since it contains personal and private information, you should disconnect this call. By continuing to listen, you acknowledge you are Merlene Rios and no one else can hear the message. There will be a three-second pause to reconfirm. This is Collectcorp calling in reference to a personal business matter. This is an attempt to collect a debt and the information obtained will be used for that purpose. If you are Merlene Rios, please contact our office at 1877-433-7012 quoting your reference number 73625142 and speak with one of our analysts to discuss the options available to you at this time. Again the number is 1877-433-7012. Thank you and we look forward to your call.

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EXHIBIT B

I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

- | | | |
|---|------------|----|
| 1. Sleeplessness | <u>YES</u> | NO |
| 2. Fear of answering the telephone | <u>YES</u> | NO |
| 3. Nervousness | <u>YES</u> | NO |
| 4. Fear of answering the door | <u>YES</u> | NO |
| 5. Embarrassment when speaking with family or friends | <u>YES</u> | NO |
| 6. Depressions (sad, anxious, or "empty" moods) | <u>YES</u> | NO |
| 7. Chest pains | <u>YES</u> | NO |
| 8. Feelings of hopelessness, pessimism | <u>YES</u> | NO |
| 9. Feelings of guilt, worthlessness, helplessness | <u>YES</u> | NO |
| 10. Appetite and/or weight loss or overeating and weight gain | <u>YES</u> | NO |
| 11. Thoughts of death, suicide or suicide attempts | <u>YES</u> | NO |
| 12. Restlessness or irritability | <u>YES</u> | NO |
| 13. Headache, nausea, chronic pain or fatigue | <u>YES</u> | NO |
| 14. Negative impact on my job | <u>YES</u> | NO |
| 15. Negative impact on my relationships | <u>YES</u> | NO |

Other physical or emotional symptoms you believe are associated with abusive debt collection activities: ALWAYS ON EDGE, THEY NEVER STOP CALLING. THEY CALL AT ALL HOURS THEY DEPRESS ME. THEY DON'T UNDERSTAND I WORKED 10 YEARS FOR ONE COMPANY AND THE COMPANY WENT B.K. AND ALL THEY TELL ME IS BORROW THE MONEY FROM FAMILY. THAT STRESSES ME OUT!!!

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 8-7-09

Willie Rios
Signed Name

Willie Rios
Printed Name